

MARK G. TRATOS, ESQ.
Nevada Bar No. 1086

tratosm@gtlaw.com

BETHANY L. RABE, ESQ.
Nevada Bar No. 11691

rabeb@gtlaw.com

KIMBERLY J. COOPER, ESQ.
Nevada Bar No. 9533

cooperk@gtlaw.com

GREENBERG TRAURIG, LLP

10845 Griffith Peak Drive, Suite 600

Las Vegas, Nevada 89135

Telephone: (702) 792-3773

Facsimile: (702) 792-9002

Counsel for Plaintiff/Counterdefendant

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RESORTS WORLD LAS VEGAS LLC, a
Delaware limited liability company,

Plaintiff,

v.

ROCK FUEL MEDIA, INC., a California
corporation,

Defendant.

Case No.: 2:21-cv-02218-JAD-MDC

**RENEWED STIPULATION AND
PROPOSED ORDER TO EXTEND
DISCOVERY**

(SIXTH REQUEST)

ROCK FUEL MEDIA, INC., a California
corporation,

Counterclaimant,

v.

RESORTS WORLD LAS VEGAS LLC, a
Delaware limited liability company; and DOE
and ROES I-X are unknown or not yet confirmed,

Counterdefendants.

RESORTS WORLD LAS VEGAS, LLC (“Plaintiff”) and ROCK FUEL MEDIA, INC.
 (“Defendant”) (collectively the “Parties”), by and through their counsel, hereby file this Stipulation
 and Proposed Order to Extend Discovery in this case by sixty (60) days under Local Rules IA 6-1
 and 26-3.

1 This is the sixth request that the Court grant a stipulation to allow for the completion of
2 discovery. This stipulation was previously denied without prejudice, subject to the parties identifying
3 deposition dates for the listed depositions. *See* ECF No. 97. Such dates have now been identified
4 and are included herein.

5 **FACTUAL BACKGROUND**

6 Plaintiff initiated this declaratory relief matter on December 17, 2021 [ECF No. 1]. Defendant
7 filed its answer and counterclaim on February 28, 2022 [ECF No. 11]. The Court entered the Joint
8 Discovery Plan and Scheduling Order on April 14, 2022 [ECF No. 20]. On July 15, 2022, the Parties
9 filed a Stipulation and Proposed Order to Extend Discovery (First Request) during the pendency of
10 the motion to dismiss Defendant's counterclaim. [ECF No. 22, 13].

11 Plaintiff's motion to dismiss Defendant's counterclaim was heard on September 20, 2022; the
12 Court denied said motion. [ECF No. 28]. Plaintiff filed its answer to the counterclaim on September
13 30, 2022. [ECF No. 29].

14 On October 4, 2022, the Parties filed a Stipulation and Proposed Order to Extend Discovery
15 (Second Request), while Defendant's counsel contemporaneously filed a motion to withdraw. [ECF
16 No. 30, 31]. On October 17, 2022, Defendant's counsel's motion to withdraw was granted [ECF No.
17 35].

18 On November 2, 2022, Defendant's new counsel filed a notice of appearance. [ECF No. 41].
19 Based on Defendant's new counsel's appearance, the Parties filed a Stipulation and Proposed Order
20 to Extend Discovery (Third Request). [ECF No. 43]. Shortly thereafter, on February 13, 2023,
21 Defendant's counsel filed a motion to withdraw, which was granted. [ECF No. 45, 48]. On
22 September 20, 2023, Defendant's new counsel filed a notice of appearance for the limited purpose of
23 representing Defendant with respect to setting aside its default, and withdrew as Defendant's counsel
24 on March 4, 2024, once that purpose had been accomplished. [ECF No. 67, 87].

25 On February 16, 2024, the undersigned counsel for Defendant filed its Notice of Appearance
26 in this matter. [ECF No. 86]. On or about March 18, 2024, current defense counsel resolved
27 outstanding claims by the Defendant's former counsel, Marquis & Aurbach, Chtd., to secure most of
28 the client's file for this matter and will work with previous counsel at Dickinson Wright to secure the

1 remainder of the file documents disclosed in this matter. Prior to current defense counsel's
 2 appearance, little transpired in the case, as the Defendant was attempting to locate replacement
 3 counsel. Since appearing, Defendant's counsel has communicated with Plaintiff's counsel regarding
 4 the difficulty securing the file documents and worked on a proposed scheduling order given the
 5 remaining discovery which needs to be completed for this case.

6 The Parties have agreed that the proposed discovery deadlines are necessary to further
 7 investigate the claims and defenses of the Parties.

8 COMPLETED DISCOVERY

- 9 1. The Parties have exchanged initial disclosures.
- 10 2. Plaintiff and Defendant both served three rounds of written discovery, to which the
 11 opposing Party has responded. Most recently, Resorts World responded to Defendant's
 12 third set of requests for production of documents on July 15, 2024.
- 13 3. The Parties have served their respective expert disclosures.
- 14 4. Each side has taken multiple depositions.
 - 15 a. Plaintiff has taken the depositions of Barry Summers, Howard Levine, and Ty Roberts.
 - 16 b. Since the time of the last request for an extension of discovery, Plaintiff has also taken
 17 two FRCP 30(b)(6) depositions of corporate representatives for Defendant.
 - 18 c. Defendant has taken the depositions of Paul Myers, Gerald Gardner, Doni Taube, and
 19 Sam McMullen, Jr.
 - 20 d. Since the time of the last request for an extension of discovery, Defendant has also
 21 taken the deposition of one of Plaintiff's expert witnesses, Professor Anthony Cabot,
 22 Esq., and the deposition of fact witness Rick Hutchins.
- 23 5. The Parties have supplemented responses to discovery.
- 24 6. Defendant has had to conduct due diligence on most of the third parties, as well as
 25 domesticate some subpoenas, as many of the addresses have gone stale.
- 26 7. Plaintiff has served a subpoena duces tecum upon Originate, a software development
 27 company located in California.

28 ///

8. Defendant has served an FRCP 30(b)(6) meet and confer letter and the Parties have conducted that meet and confer.

REMAINING DISCOVERY

The remaining discovery in this case is primarily depositions, although the Parties anticipate conducting limited additional written discovery. Due to various scheduling conflicts, the Parties have set and vacated several depositions. In particular, the following depositions remain:

1. Edward Farrell of J&J (Former President of Resorts World) – September 24, 2024.
2. Les Leonard of Seneca Gaming Company (Former IT employee of Resorts World) – the parties have determined that Mr. Leonard will provide a declaration in lieu of a deposition.
3. Daniel Sahl (expert for Plaintiff) – October 14, 2024.
4. James P. Martin (expert for Defendant) – October 11, 2024.
5. FRCP 30(b)(6) representative(s) of International Game Technology – October 16, 2024.
6. FRCP 30(b)(6) representative(s) of Sightline Payments – October 16, 2024.
7. FRCP 30(b)(6) representative(s) of Resorts World – October 1, 2024.

Additionally, Resorts World is continuing to search for and produce documents responsive to Defendant's latest round of written discovery, as further noted below.

GOOD CAUSE TO EXTEND DISCOVERY

The Parties have been diligent in conducting discovery in this matter. Both Parties have served written discovery on the other and responded to the same. Both Parties have retained experts and disclosed reports, and both Parties have taken multiple depositions. Counsel for Defendant only received the litigation file in June, including thousands of pages of documents that were produced (due to an attorney lien on Defendant's file). Counsel for Defendant has been diligently reviewing the documents and coming up to speed on the case. Resorts World is working to provide responses to Defendant's most recent round of written discovery, but it is a difficult process, given that the events underlying this litigation took place in 2018 and many individuals involved are no longer employed by Resorts World and live out of state. As gaming operations have continued to spread across the United States, employment opportunities for executives with industry experience have increased outside of Nevada and throughout the United States. This, in turn, has meant that locating

1 former employees is more difficult and finding opportunities for them to be deposed is more difficult
2 because of conflicting time zones.

3 Further, many of the documents Plaintiff requested will require the permission of third parties
4 to produce, due to contractual provisions governing confidentiality of sensitive documents and
5 communications. Plaintiff has been in the process of working with those third parties to obtain such
6 permission.

7 Growth of mobile gaming did not occur first in Nevada, which has the most thorough and
8 conservative oversight of gaming operators and manufacturers in the United States. Mobile gaming
9 developed both in Asia and Europe as much as a decade before it migrated to the United States. Other
10 states, such as New Jersey, adopted mobile gaming regulations earlier in 2013, long before Nevada
11 permitted such uses. This has meant that much of the critical information about the state-of-the-art
12 of the industry regarding mobile gambling, which was knowable to interested parties, developed
13 outside of Nevada. This has required additional time and expense and slowed the discovery process
14 of completing discovery and production of documents.

15 The Parties believe that additional time for discovery would assist them in fully developing
16 their claims and defenses with an eye toward eliminating all or some of the claims and defenses at
17 the summary judgment stage.

18 At various times, the Parties have considered whether mediation or other forms of alternative
19 dispute resolution would be appropriate, and will continue to evaluate that possibility as the case
20 continues.

21 As such, the Parties jointly stipulate and request that the Court adjust the remaining dates by
22 sixty (60) days as follows:

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

PROPOSED DISCOVERY DATES¹

Deadline	Current Date	New Proposed Date
Close of Discovery – Liability	September 6, 2024	November 5, 2024
Dispositive Motions – Liability	October 7, 2024	December 6, 2024
Discovery Opens – Damages ²	October 8, 2024	December 7, 2024
Close of Discovery – Damages	February 5, 2025	April 7, 2025
Dispositive Motions – Damages	March 7, 2025	May 6, 2025
Joint Pretrial Order ³	April 7, 2025	June 6, 2025

IT IS SO STIPULATED.DATED this 28th day of August, 2024.**GREENBERG TRAURIG, LLP***/s/ Bethany L. Rabe*

Mark G. Tratos (NV Bar No. 1086)
 Bethany L. Rabe (NV Bar No. 11691)
 Kimberly J. Cooper (NV Bar No. 9533)
 10845 Griffith Peak Drive, Suite 600
 Las Vegas, NV 89135
Attorneys for Resorts World Las Vegas

DATED this 28th day of August, 2024.**SPENCER FANE***/s/ Linda K. Williams*

Vincent J. Aiello (NV Bar No. 7970)
 Linda K. Williams (NV Bar No. 12135)
 300 South Fourth Street, Suite 950
 Las Vegas, NV 89101
Attorneys for Rock Fuel Media, Inc.

IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

DATED: 8/30/24

¹ Where a date falls on a weekend or holiday, the date is moved to the next business day.² Per the Court's prior orders, if one or more dispositive motions are filed after the first phase of discovery, the Parties shall submit a Stipulation to Vacate the Discovery Deadlines for Second Phase of Discovery and which provides that the Parties shall submit a proposed Discovery Plan and Scheduling Order for the Second Phase of Discovery within 20 days of the Court's ruling on the last pending dispositive motion.³ In the event dispositive motions are filed, the date for filing the Joint Pretrial Order is suspended until 30 days after entry of a decision on the last pending dispositive motion or upon further order of the Court.